

**GUARANTY NATIONAL INSURANCE COMPANY
9800 SOUTH MERIDIAN BLVD.
ENGLEWOOD, COLORADO 80112**

NAIC COMPANY CODE 11401

**MARKET CONDUCT EXAMINATION REPORT
OF PRIVATE PASSENGER AUTOMOBILE
as of June 30, 2004**

PREPARED BY DIVISION EMPLOYEE

AND

INDEPENDENT CONTRACTORS

FOR THE

**COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

04/20/05

**Guaranty National Insurance Company
9800 South Meridian Blvd.
Englewood, Colorado 80112**

**MARKET CONDUCT
EXAMINATION REPORT
as of June 30, 2004**

Prepared by

**John E. Bell
Market Conduct Examiner
Colorado Division of Insurance
&
Kathleen M. Bergan, AIE
Wayne C. Stephens, CIE, CPCU**

Independent Contract Examiners

April 20, 2005

The Honorable Doug Dean
Acting Insurance Commissioner
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Dean:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, and claims practices of Guaranty National Insurance Company's private passenger automobile business, has been conducted. The Company's records were examined at its Home Office and Regional Claims Center located at 9800 South Meridian Blvd., Englewood, Colorado 80112 and Regional Service Center office located at 1125 Kiwanis Drive, Freeport, Illinois 61032.

The examination covered a one-year period from July 1, 2003 through June 30, 2004.

A report of the examination of Guaranty Insurance Company is, herewith, respectfully submitted.

John E. Bell, Market Conduct Examiner
Colorado Division of Insurance

Kathleen M. Bergan, AIE

Wayne C. Stephens, CIE, CPCU

Independent Market Conduct Examiners

**MARKET CONDUCT EXAMINATION REPORT
OF THE
GUARANTY NATIONAL INSURANCE COMPANY**

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
I. COMPANY PROFILE.....	5
II. PURPOSE AND SCOPE OF EXAMINATION.....	6
III. EXAMINER’S METHODOLOGY.....	8
IV. EXAMINATION REPORT SUMMARY.....	12
V. PERTINENT FACTUAL FINDINGS.....	13
A. Private Passenger Auto Claims.....	14
VI. SUMMARY OF RECOMMENDATIONS.....	20
VII. EXAMINATION REPORT SUBMISSION.....	21

COMPANY PROFILE

Guaranty National Insurance Company (hereinafter referred to as “the Company”) was organized on March 8, 1955 under the laws of Colorado and it began business May 2, 1955.

The corporate status of the Company was changed on March 20, 1973 to that of a holding company, operating as Guaranty National Corporation (now known as OrionAuto, Inc.).

OrionAuto, Inc. (formerly Guaranty National Corporation) has owned all of the outstanding shares of this Company since March 1973. OrionAuto, Inc. was purchased in 1999 by Royal & Sun Alliance Insurance Group plc, a United Kingdom company.

The Company became an indirect subsidiary of Royal & Sun Alliance Insurance Group plc when Royal & SunAlliance USA, Inc. acquired Orion Capital Corporation in November 1999. The Company's affairs are managed by the same executives directing those of the parent company, Royal & SunAlliance USA, Inc.

The company is licensed in all states and Puerto Rico, except for CA, CT, DE, DC, MA, NJ, OK, RI and TX. The Company discontinued selling new business on February 25, 2002. Those insureds who currently have a 6-month policy can continue to renew for that term.

As of calendar year 2003, the Company had reported Private Passenger Auto direct written premiums in Colorado of \$806,000, representing a .03% market share in Colorado.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance and an employee of the Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law §10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to Private Passenger Automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered a twelve (12) month period of the Company's operations, from July 1, 2003 through June 30, 2004.

File sampling was based on a review of underwriting and claims files that were randomly selected by using "ACL"™ software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systematic, or when due to sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of examination (e.g. timeliness of claims payment), and if one or more samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five (5%) were also included.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

This report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Producers

3. Underwriting and Rating
4. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's Private Passenger Automobile underwriting and claims practices to determine compliance with the Colorado insurance law as outlined in Exhibit 1.

On July 1, 2003, the Colorado Auto Accident Reparations Act, also known as the motor vehicle no-fault insurance law was repealed pursuant to § 10-4-726, C.R.S. Upon enactment of HB 03-1188, the Colorado law index was changed to include modification and clarification of laws under Section 10-4-600. Because this examination included the repeal and the addition of new Colorado auto insurance laws during the period under examination, both No-Fault (PIP) and tort reform as well as additional legislative enactments during 2003 are included in Exhibit 1.

Exhibit 1

Law	Subject
Colorado PIP/No fault Related Statutes	
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-706.	Required coverage - complying policies - PIP examination program.
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Intercompany arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.
Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Colorado Regulations	
Regulation 1-1-6	Certification of Forms

Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8	Penalties and Timeline Concerning Division Inquires And Document Requests.
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Insurance Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.
	Tort Reform Legislation and Revised laws-Effective July 1, 2003
Section 10-4-615	Motorist insurance identification database program.
Section 10-4-616	Disclosure of credit reports.
Section 10-4-617	Auto theft prevention authority.
Section 10-4-618	Unfair or discriminatory trade practices legislative declaration.
Section 10-4-619	Coverage compulsory.
Section 10-4-620	Required coverage.
Section 10-4-621	Required coverages are minimum.
Section 10-4-622	Required provision for intrastate and interstate operation.
Section 10-4-623	Conditions and exclusions.
Section 10-4-624	Self-insurers.
Section 10-4-625	Quarterly premium payments.
Section 10-4-626	Prohibited reasons for nonrenewal or refusal to write a policy of Automobile insurance.
Section 10-4-628	Refusal to write-changes in-cancellations-nonrenewal
Section 10-4-629	Cancellation-renewal-reclassification.
Section 10-4-630	Exclusions of named driver.
Section 10-4-631	Insurers to file rate schedule.
Section 10-4-632	Reduction in rates for drivers aged fifty-five or older who Complete a driver's education course-legislative declaration.
Section 10-4-633	Certification of policy and notice forms.
Emergency Regulation 03-E-2, 5, and 10	Transition from No-Fault Auto to Tort System.

Company Operations/Management

The examiners reviewed Company management, implementation of quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

Producers

The examiners reviewed business applications written in the State of Colorado for the period under examination and compared those documents against the list of producers provided by the Company. The Company uses Independent Agents licensed to write business through the Company.

Contract Forms and Endorsements

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance:

Form Number	Form Name
00-AE0003 6/96	Additional Insured Endorsement
00-AE0004 12/96	Special Equipment Endorsement
00-NOE-2 11/86	Named non-owner Endorsement
01-05AC03 7/03	Amendatory Endorsement
01-AU-7200 1/86	Car Policy
A1205C0 7/03	CO Acceptance or Rejection of UM/UIM Coverage
AIL1 3/99	Additional Insured Lessor Endorsement
BFN1-CO 5/00	Broad Form Named Driver Endorsement (paper version)
BFN1a-CO 5/00	Broad Form Named Driver Endorsement (electronic version)
BFP1 9/99	Broad Form Physical Damage Coverage Endorsement
CO3000 5/00	ID Card (vehicle policy)
CO3010 5/00	ID Card (broad form named driver policy)
CO3950 4/01	Increase in Premium Notice
CO4060 5/00	Cancellation Notice (due to NSF)
CO5700 4/01	Cancellation Notice with Consumer Report
CO5710 4/01	Cancellation Notice without Consumer Report
CO5900 4/01	Nonrenewal Notice with Consumer Report
CO5910 4/01	Nonrenewal Notice without Consumer Report
CP1 3/99	Car Policy
CPA-CO 7/03*	Car Policy Amendatory Endorsement – CO
GNIDB 8/95	Loss Payable Endorsement
LDE1 11/99	Lienholder Deductible Endorsement
LH1 3/99	Loss Payable Endorsement
NDE1 3/99	Named Driver Exclusion Endorsement (paper version)
NDE1a 3/99	Named Driver Exclusion Endorsement (electronic version)
PHN1-CO 10/02	Managed Care Program & Temporary Claim Card (paper version)
PHN1a-CO 10/02	Managed Care Program & Temporary Claim Card (electronic version))
PIP1-CO 10/02	Personal Injury Protection Endorsement
PL5100 5/00	Renewal Offer with Nonpay Cancellation Notice
PL5211 5/00	Installment Offer with Nonpay Cancellation Notice
PL5601 5/00	Balance Due Notice (due to policy change)
PL5611 5/00	Balance Due Notice (due to policy reinstatement)

PL5621	5/00	Balance Due Notice (due to short payment)
SD1-CO	7/03*	CO Private Passenger Automobile Disclosure Form
SE1	3/99	Special Customized Equipment Endorsement
TL1	3/99	Towing and Labor Costs Coverage Endorsement
UM3-CO	7/03*	UM & UIM Coverage Endorsement – CO
UM6-CO	7/03*	UMPD Coverage Endorsement – CO
No Form #		Declarations Page

*Revised effective 7/1/2003

In-Force /Cancellations/Nonrenewals/Surcharges/Tort Conversion

For the period under examination, the examiners randomly selected the following underwriting samples to determine compliance with underwriting practices:

Underwriting Lists	Population	Sample Size	Percentage to Population
In-Force	402	50	12%
Cancellations	58	50	86%
Nonrenewals	2	2	100%
Surcharges	1	1	100%
Tort Conversion	351	50	14%

Rating

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, discounts, and final premium calculations.

Claims

For the period under examination, the examiner randomly selected the following samples to determine compliance of claims handling practices:

Claim Lists	Population	Sample Size	Percentage to Population
Claims Paid	1283	50	4%
Claims Denied	265	50	19%
PIP paid claims	93	50	54%

EXAMINATION REPORT SUMMARY

At the beginning of the examination, the examiners met with the staff and examination coordinator to discuss the entire audit review process. One of the topics addressed was the fact that although Viking Insurance Company of Wisconsin and Guaranty National Insurance Company (GNIC) are separate companies, there were many common claim procedures and practices that were handled in the same location and overseen by the same administrative management.

Therefore, it was agreed by all parties involved, the Company, the Colorado Division of Insurance, and the examiners, that in those cases where it appeared that a comment form may be applicable to the other company, the examiners would include an option in the final examination report to “deem the findings applicable to both companies, even though the actual claim findings may have been exclusively identified as related to Viking Insurance Company during the scope of the examination from July 1, 2003-June 31, 2004.

The Colorado Division of Insurance reserves the right to conduct an examination of any Company of the group should circumstances arise which would warrant another examination.

The examination resulted in four (4) issues arising from the Company’s apparent failure to comply with Colorado insurance law that govern all property and casualty insurers operating in Colorado.

Company Operations and Management:

In the area of Company Operations and Management, no compliance issues are addressed in this report.

Underwriting:

In the area of Underwriting, no compliance issues are addressed in this report.

Claim Practices:

In the area of claim practices, four (4) compliance issues are addressed in this report. (Note: All four (4) issues were deemed from the findings of the Viking Insurance Company of Wisconsin examination) Issues arise from Colorado insurance law requirements dealing with the fair and equitable settlement of claims, claims handling practices, payment of PIP claim benefits, and the timeliness and accuracy of claim payments. The issues in this phase are identified as follows:

- Failure in some cases, to compensate a claimant for the loss of use of his or her vehicle while repairs were being made.
- Failure, in some cases, to maintain claim records to clearly show the handling and disposition of each claim
- Failure, in some cases, to pay personal injury protection benefits in a timely manner required by Colorado insurance law.
- Failure, in some cases, to send a letter to the claimant and/or health care provider setting forth reasons why additional time is needed to investigate a claim.

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

A copy of the Company’s response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance. Results of previous Market Conduct Exams are available on the Colorado Division of Insurance’s website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

GUARANTY NATIONAL INSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

GUARANTY NATIONAL INSURANCE COMPANY

CLAIMS

Issue A: Failure, in some cases, to compensate a claimant for the loss of use of his or her vehicle while repairs were being made.

Section 10-3-1104(1)(h), C.R.S., Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

- (VI) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear; or....

Private Passenger Auto - Paid Claims

Population	Sample Size	Number of Exceptions	Percentage to Sample
1,283	50	6	12%

An examination of fifty (50) files, representing 4% of all files with payments issued during the period under examination revealed six (6) exceptions (12% of the sample) wherein the Company failed to compensate a claimant for the loss of use of his or her vehicle during the time repairs were being made. In all these instances, the Company paid for the cost of repairs to the vehicle. There was no indication in any of these files that compensation was requested, but denied or offered, but refused.

Recommendation No. 1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has amended its claim settlement procedures to ensure compliance with Colorado insurance law.

Issue B: Failure, in some cases, to maintain claim records to clearly show the handling and disposition of each claim.

Colorado Insurance Regulation 1-1-7, MARKET CONDUCT RECORD RETENTION, promulgated under the authority of §10-1-109(1), C.R.S.:

Section 4. Records Required For Market Conduct Purposes

Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may be readily ascertained during market conduct examinations, including but not limited to, company operations and management, policyholder services, claim's practices, rating, underwriting, marketing, complaint/grievance handling, producer licensing records, and additionally for health insurers/carriers or related entities: network adequacy, utilization review, quality assessment and improvement, and provider credentialing. Records for this regulation regarding market conduct purposes shall be maintained for the current calendar year plus two prior calendar years.

Section 6. Claim Records

The claim records shall be maintained so as to show clearly the inception, handling and disposition of each claim. The claim records shall be sufficiently clear and specific so that pertinent events and dates of the events can be reconstructed.

Private Passenger Auto - Paid Claims

Population	Sample Size	Number of Exceptions	Percentage to Sample
1,283	50	6	12%

An examination of fifty (50) files, representing 4% of all files with payments issued during the period under examination revealed six (6) exceptions (12% of the sample) wherein the Company failed to include in the claim file information relating to the loss of use of the claimant vehicle while it was being repaired. There was no information indicating the claimant had refused compensation for loss of use or the Company had denied compensation for loss of use. It was not possible to determine how this matter was handled.

Recommendation No. 2:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 1-1-7. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has amended its claim settlement procedures to ensure compliance with Colorado insurance law.

Issue C: Failure, in some cases, to pay personal injury protection benefits in the timely manner required by Colorado insurance law.

Section 10-4-708, C.R.S., Prompt payment of direct benefits, provides:

- (1) Payment of benefits under the coverages enumerated in section 10-4-706(1)(b) to (1)(c) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. *Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period* [emphasis added]; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action in contract to recover the same.

Private Passenger Auto PIP Paid Claims

Population	Sample Size	Number of Exceptions	Percentage to Sample
93	50	12	24%

An examination of fifty (50) Personal Injury Protection claim files, representing 54% of all PIP files with payments issued during the period under examination showed twelve (12) exceptions (24% of the sample) with nineteen (19) instances in the twelve (12) files, wherein the Company failed to make payment in the timely manner required by Colorado law. In all nineteen (19) instances, the Company made payment later than thirty days after receipt of proof of the fact and amount of expenses incurred.

Recommendation No. 3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-708, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has amended its procedure regarding the payment of PIP benefits to ensure compliance with Colorado insurance law.

Issue D: Failure, in some cases, to send a letter to the claimant and/or health care provider setting forth the reasons why additional time is needed to investigate a claim.

Regulation 5-2-8, effective 9/01/2000 and Amended Regulation 5-2-8 effective 2/01/2004, Timely Payment of Personal Injury Protection Benefits, promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to Sections 10-1-109, 10-4-704, 10-4-08(1.3), and 10-3-1110(1), C.R.S., provides:

A. PROMPT INVESTIGATION OF PIP CLAIMS

Section 10-3-1104(1)(h)(III), C.R.S., requires insurers to adopt and implement reasonable standards for the prompt investigation of claims. An insurer is also required to promptly investigate a claim while it is accumulating claim's expense.

Whenever an insurer requires that an application for benefits form be submitted by an injured party, the insurer shall forward the form to the injured party upon notification of the injury.

When an investigation is incomplete or is otherwise continued, the insurer shall, within 30 days after the documents are received as described in C. below and every 30 days thereafter, send to the claimant or the claimant's representative, and the health care provider, if applicable, a letter setting forth the reasons additional time is needed for investigation.

Where additional information is required to complete an investigation, the insurer shall request such information, *specifically listing the items needed to complete the investigation*. [Emphasis added] A copy of such request shall be delivered to the claimant, the claimant's representative, the health care provider or other person or entity most likely in possession of the required information.

B. PROMPT PAYMENT OF PIP BENEFITS

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in §10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

Section 10-4-708(1), C.R.S., allows for the accumulation of claims expense for periods not exceeding one month and provides that benefits are not overdue if paid within 15 days after the end of a defined period of accumulation. An insurer is permitted by this statute to pay a bill within 15 days after the end of a defined accumulation period only when there is a reasonable likelihood that multiple providers are involved and more than one bill is received during the accumulation period.

And, at D. NOTICE REQUIREMENTS

If an insurer does not pay a claim for benefits under §10-4-706, C.R.S. within 30 days of receipt of the appropriate documents described in this regulation and as set forth in §10-4-708, C.R.S., the insurer shall immediately notify the PIP claimant or the claimant's representative and the health care provider, if applicable, of the reason(s) the

claim has not been paid. If the claim has not been paid because an investigation is underway, the insurer shall document in the claim file the actions being taken to investigate the claim and the efforts being made to promptly conclude the investigation. [Emphasis added]

Private Passenger Auto - PIP Paid Claims

Population	Sample Size	Number of Exceptions	Percentage to Sample
93	50	12	24%

An examination of fifty (50) Personal Injury Protection claim files, representing 54% of all PIP files with payments issued during the period under examination showed twelve (12) exceptions (24% of the sample) with nineteen (19) instances in the twelve (12) files, wherein the Company failed to send a letter to the claimant and/or health care provider setting forth reasons why additional time is needed to investigate a claim.

Recommendation No. 4:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 5-2-8. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has amended its claim settlement procedures to ensure compliance with Colorado insurance law.

Summary of Recommendations

ISSUE	RECOMMEDATION NUMBER	PAGE NUMBER
ISSUE A: Failure, in some cases, to compensate a claimant for the loss of use of his or her vehicle while repairs were being made.	1	15
ISSUE B: Failure, in some cases, to maintain claim records to clearly show the handling and disposition of each claim.	2	16
ISSUE C: Failure, in some cases, to pay personal injury protection benefits in a timely manner required by Colorado insurance law.	3	17
ISSUE D: Failure, in some cases, to send a letter to the claimant and/or health care provider setting forth the reason why additional time is needed to investigate a claim.	4	19

John E. Bell, Market Conduct Examiner
&
Independent Market Conduct Examiners
Kathleen M. Bergan, AIE
Wayne C. Stephens, CIE, CPCU
Participated in this examination and in the preparation of this report